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ALEXANDER L. STEVAS,
CLERK

NO. 82-821

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

HUGH W. STROH, Petitioner,

v.

WASHINGTON STATE BAR ASSOCIATION,
Respondent.

RESPONSE TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WASHINGTON

NORM MALENG
King County Prosecuting Attorney

ROBERT S. LASNIK
Senior Deputy Prosecuting Attorney

DEBORAH J. PHILLIPS
Deputy Prosecuting Attorney
Counsel of Record

Attorneys for Respondent

W554 King County Courthouse
Seattle, Washington 98104
(206) 583-2200

QUESTIONS PRESENTED FOR REVIEW

1. Should the United States Supreme Court review a decision by the highest court of a state disbarring an attorney who has been convicted of a felony and who received a full due process hearing from the Bar prior to disbarment?

2. Does the highest court of the State of Washington have the exclusive duty and power to interpret and enforce its rules governing the discipline of attorneys?

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OPINION BELOW

The opinion of the Supreme Court of Washington in In re Stroh is reported at 97 Wash. 2d 289, 644 P.2d 1161 (1982). The opinion is appended to Stroh's petition.

JURISDICTION

Petitioner Stroh invokes jurisdiction pursuant to 28 U.S.C. § 1254(1)(2). These provisions, however, apply to decisions by the federal courts of appeals. Stroh alleges that the action of the State Supreme Court in disbarring him following his conviction for a felony offense did not comport with the United States Constitution protections guaranteeing due process of law and equal protection. Presumably he meant to invoke jurisdiction under 28 U.S.C. § 1257. The Court should decline to assert jurisdiction in this case since

the procedures used by the State Supreme Court in the disbarment of Stroh complied with procedural due process requirements and did not violate equal protection.

CONSTITUTIONAL PROVISIONS

Petitioner alleges the State Supreme Court violated his rights under the Fourteenth Amendment to the United States Constitution to due process of law and to equal protection of the law.

STATEMENT OF THE CASE

1. Procedure

Hugh W. Stroh petitions this Court to review an order entered by the Washington State Supreme Court on May 19, 1982, resulting in Stroh's disbarment. Stroh was convicted on April 30, 1979, of the felony crime of Tampering With A Witness, a violation of Wash. Rev. Code

9A.72.120(1)(a). A superior court jury found that Stroh, in March, 1977, attempted to induce a witness to testify falsely in an official proceeding. On August 22, 1979, judgment and sentence was entered on this felony conviction. The King County Prosecutor (hereinafter Prosecutor) forwarded a certified copy of Stroh's conviction to the Clerk of the State Supreme Court for filing pursuant to Washington's Discipline Rules for Attorneys (DRA) 9.1(a), and to the Washington State Bar Association (hereinafter Bar) with a request that disciplinary action be initiated pursuant to DRA 1.1(a), since moral turpitude, dishonesty and corruption appeared to be inherent in the act.

By a Formal Complaint dated September 4, 1979, the Bar advised Stroh of the nature of the charges against him, the specific Discipline Rules for

Attorneys and Disciplinary Rules in the Code of Professional Responsibility which he was alleged to have violated, and the issues framed for the hearing (Appendix A). On October 30, 1979, a hearing was held before a Bar Hearing Officer. Stroh was entitled to counsel, but chose to appear pro se. He presented his case through affidavits, and through testimony of himself and another witness. The Bar offered into evidence certified copies of the amended information and the judgment and sentence adjudging Stroh guilty of the felony offense. On December 13, 1979, the Hearing Officer found that disbarment was the proper recommendation since Tampering With A Witness was a felony involving moral turpitude (Appendix B). Based solely on the record of this hearing, the Bar Disciplinary Board

(hereinafter Board) on February 22, 1980, found that Stroh's acts and conduct did not involve moral turpitude and directed that the complaint be dismissed.

Notice of Appeal in the criminal case was filed by Stroh in the Washington Court of Appeals on September 4, 1979, twelve days after judgment and sentence. Briefs were filed by both parties and oral argument was set for November 13, 1980. On November 12, 1980, Stroh requested that his appeal be withdrawn and dismissed. On November 14, 1980, the Court of Appeals granted that request. Stroh had received the Board's order dismissing the Bar complaint in February, 1980, had filed his Brief of Appellant in April, 1980, and withdrew his appeal the day before oral argument in November, 1980.

The Bar did not inform the complainant, the Prosecutor, or the State Supreme Court of its dismissal of the complaint. The Prosecutor did not discover this dismissal until January 13, 1981, when Stroh produced a copy of the dismissal in a hearing on his motion to suspend the balance of his jail sentence of 30 days confinement. The Prosecutor immediately sought reconsideration by the Board, which agreed to hear from the Prosecutor on March 20, 1981. On that date, King County Prosecutor Norm Maleng presented arguments on why the Board's action was not in compliance with the Court's rules for discipline. Stroh was then allowed to address the Board, without the Prosecutor present, on why it should not reconsider its order of dismissal. On April 3, 1981, the Board advised the Prosecutor that it would not reopen the matter. On April 27, 1981,

the Prosecutor filed with the State Supreme Court a Petition in support of its request that the State's highest court review the Bar proceedings relating to Stroh under its inherent authority over professional misconduct by members of the bar. An Order to Show Cause was issued on July 10, 1981, by the Chief Justice of the State Supreme Court setting the matter for a hearing on whether the court should order the transmittal of all files and records of the Bar for review to determine if the Board's actions complied with the high court's rules on attorney discipline (Appendix C).

Briefs were filed by the King County Prosecutor, the Washington State Bar Association and Stroh. The Prosecutor's opening brief concluded its petition to the court as follows:

> Petitioner respectfully requests that this Court reverse the dismissal of its complaint by the Disciplinary Board, hold as a matter of law that moral turpitude is an element of the crime of Tampering With A Witness . . . and remand the matter to the Disciplinary Board for a recommendation as to the disciplinary action which should result from Mr. Stroh's conviction, or, in the alternative, to examine the full record and exercise its inherent power to impose final disposition in this matter.

Petitioner's Brief, In re Stroh, at 30.

At oral argument on September 28, 1981, Stroh, represented by counsel, presented his arguments on why the Court should not intervene. In addition, Stroh himself was called upon by the Chief Justice to address the Court on the issue of what discipline should be imposed if the Court decided the Bar had erred. He did so address the Court. By letter on October 6, 1981, Stroh supplemented his oral remarks to the Court with written amplifications, including a transcript of the entire criminal trial.

The Prosecutor made no objection to this unusual form of supplementing the record. The Court specifically referred to Stroh's post-argument input, along with the record of the original fact-finding hearing, as the matters used by the Court to resolve the issue of discipline.

2. **Facts**

The underlying criminal conviction which formed the basis of the Court's disbarment of Stroh involved an incident where Stroh, as attorney for a man accused of driving while under the influence of intoxicants, attempted to get a police officer to testify falsely at an administrative hearing relating to his client's refusal to take a breathalyzer test as required by law. After hearing testimony from Stroh, the police

officer, and other witnesses, the jury returned a unanimous verdict of guilty.

REASONS FOR NOT GRANTING THE WRIT

1. **The United States Supreme Court Should Refuse To Review A Decision By The Highest Court Of A State Disbarring An Attorney Who Has Been Convicted Of A Felony And Who Received A Full Due Process Hearing From The Bar Prior To Disbarment.**

   a. The United States Supreme Court should not review decisions by the highest court of a state disbarring an attorney convicted of a felony absent extraordinary circumstances.

The United States Supreme Court has been justifiably reluctant to insert itself into disciplinary matters handled by state courts. As the Court said in Theard v. United States, 354 U.S. 278, 279 (1957).

> It is not for this Court, except within the narrow limits for review open to this Court . . . to sit in judgment on (state court) disbarments.

The Court has noted that it does not act as a reviewing court with authority to re-examine or reverse the action of the state supreme court in disbarring a member of the Bar of the courts of that state. Selling v. Radford, 243 U.S. 46, 50 (1916).

The Court only meets the issue of state court disbarment in one of two circumstances: Either the question of federal disbarment based on a state disbarment involving procedural defects is at issue (see, e.g., In re Ruffalo, 390 U.S. 544 (1967); Selling v. Radford, supra; and Theard v. United States, supra), or the underlying cause for discipline involves important constitutional issues of a broad sense, such as free speech (see, e.g., Bates v. State Bar of Arizona, 433 U.S. 350 (1977); Konigsberg, v. State Bar, 366 U.S. 36 (1960); and Schware v. Board of Bar

Examiners, 353 U.S. 232 (1952)), or freedom of religion (see, e.g., In re Summers, 325 U.S. 561 (1945)). Stroh's petition is of the former variety since the act he committed was in no way constitutionally protected behavior. Yet petitioner has not cited a single instance where the United States Supreme Court has accepted review of a state disbarment based on an alleged lack of notice. In re Ruffalo, supra, upon which petitioner almost exclusively relies, involved an Ohio attorney who was suspended by the Ohio Supreme Court for violations of ethical canons relating to an attorney purchasing an interest in the subject matter of litigation. Mahoning County Bar Ass'n. v. Ruffalo, 176 Ohio St. 263, 199 N.E.2d 396 (1964). The federal district court found there was no misconduct and refused to discipline Ruffalo in its

court. In re Ruffalo, 249 F.Supp. 432 (N.D. Ohio 1965). The Court of Appeals agreed with one of the three charges against the attorney and disbarred him from practice in that court. In Re Ruffalo, 370 F.2d 447 (6th Cir. 1966). When asked to uphold the disbarment in the federal court, the Supreme Court decided it would not honor the Ohio court's order due to a lack of procedural due process at the original bar hearing. Yet the action of the Ohio court was not reviewed by the Court as it affected Ruffalo's status in that state. In re Ruffalo, 390 U.S. 545. The Court previously had denied a petition for a writ of certiorari of that state court order. Mahoning County Bar Ass'n. v. Ruffalo, cert. denied, 379 U.S. 931 (1964). Recently the Court also refused to review a disbarment order from the Kansas Supreme Court

where the petitioner alleged lack of notice and an opportunity to be heard. State v. Phelps, 226 Kan. 371, 598 P.2d 180 (1979), cert. denied, sub nom., Phelps v. Kansas, 444 U.S. 1045 (1980). The Kansas Supreme Court had added a charge not made or briefed prior to the court's opinion on the disciplinary case. A panel of the Tenth Circuit Court of Appeals found this violated due process, as applied to a subsequent attempt to disbar Phelps in federal court. In re Phelps, 637 F.2d 171 (10th Cir. 1981). Nothing remotely similar to the treatment of petitioners in State v. Phelps, supra, and In re Ruffalo, supra, occurred in Stroh's case below.

The United States Supreme Court consistently has refused to become involved with the discipline of lawyers in state court unless the underlying act

resulting in discipline fell in the category of constitutionally protected behavior. There is no such issue here since Stroh's acts were "offenses against the very object and purpose for which courts are established". State v. Stroh, 91 Wash. 2d 580, 582, 588 P.2d 1182 (1979).

b. Petitioner received full procedural due process prior to his disbarment by the State Supreme Court.

Petitioner Stroh received a full and fair criminal trial resulting in his conviction by a jury. He then received a full and fair hearing before a Bar Hearing Officer on the disciplinary complaint based on his criminal conviction. He had more than the minimum protections the constitution deems essential for a hearing of this nature

to comply with due process of law, including requirements that he

> be advised of the charges against him, have a reasonable opportunity to meet them by way of defense or explanation, have the right to be represented by counsel, and have a chance to testify and call other witnesses in his behalf, either by way of defense or explanation.

In re Oliver, 333 U.S. 257, 275 (1947).

Stroh was advised of the charges against him by the Bar (Appendix A) and had an opportunity to meet them through his own testimony and witnesses called in his behalf (Appendix B). Stroh never has claimed that the full hearing he received before the Bar Hearing officer on October 30, 1979, did not comply with due process. The Hearing Officer, acting as a trial court, heard all the evidence and testimony and concluded that disbarment was called for. The Board, acting as an appellate court reviewing solely the record below,

struck the Hearing Officer's conclusion and dismissed the complaint. The State Supreme Court found that the Board had erred, and, using that same record plus the oral and written comments of Stroh referred to above, determined that disbarment, as recommended by the Hearing Officer, was the proper sanction. In Re Stroh, 97 Wash. 2d 289, 298-99, 644 P.2d 116 (1982).

The issues framed by the Chief Justice's order prior to the September 28, 1981, hearing did not affirmatively note that the ultimate resolution of the matter might include imposition of discipline. (Appendix C) Yet this was simply a matter of not stating the obvious.

The Prosecutor's opening brief, prior to oral argument, raised the issue of discipline and concluded with an acknowledgment that the State Supreme

Court had the option of returning the case to the Board or, alternatively, to examine the full record and exercise its inherent power to impose final discipline. Petitioner's Brief at 30.

The Court's Order To Show Cause indicated that the burden was on the Bar and Stroh to show why, on the facts shown in the Prosecutor's Petition,

> . . . The Supreme Court should not order the transmittal of all the files and records of the Disciplinary Board in the above-entitled matter to the Supreme Court for review pursuant to the Discipline Rules for Attorneys and the inherent authority of the Supreme Court over professional conduct by a member of the Bar . . .

Appendix C.

This too should have put Stroh on notice. The Court is the final word on all matters of attorney discipline. When his case reached the high court, Stroh must have known he was before the one entity which had the power and duty

to impose final discipline. In State ex rel. Schwab v. State Bar Association, 80 Wash. 2d 266, 269, 493 P.2d 1237 (1972), the court said

> . . . this court does not share the power of discipline, disbarment, suspension, or reinstatement with either the legislature or the State Bar Association. The ultimate constitutional power clearly lies within the sole jurisdiction of the Supreme Court.

(Original emphasis.)

2. The State Supreme Court Has The Exclusive Duty And Power To Interpret And Enforce Its Rules Governing The Discipline Of Attorneys.

The Washington Supreme Court ruled that the Board erred when it dismissed the complaint involving an attorney convicted of a felony without notifying the complainant and the court. In re Stroh, 97 Wash. 2d at 297-98. The Court said the Board and the Bar acted in opposition to the general structure of the Discipline Rules for Attorneys and

specific measures which place ultimate authority for serious offenses with the state supreme court.

The Washington court consistently has held that only the supreme court has the power to promulgate rules of discipline, to interpret them and to enforce them. State ex rel. Schwab v. State Bar Association, supra; Dodd v. Bannister, 86 Wash. 2d 176, 187, 543 P.2d 237 (1975). The court ". . . does not share the power of discipline, disbarment, suspension or reinstatement with either the legislature or the bar association". Graham v. Bar Association, 86 Wash. 2d 624, 548 P.2d 310 (1976).

Stroh may not complain about unequal treatment based on the State's highest court interpreting its own rules in a matter of first impression. Nor can he claim disparate treatment from the court exercising its inherent power to review

cases where the Bar or the Board fails to carry out its duties regarding discipline. The Court has ccnsistently declared its intention to exercise such power where the Bar or the Board is derelict in their duties. Moore v. Smith, 89 Wash. 2d 932, 939, 578 P.2d 26 (1978). The Supreme Court had done so in 1975 in Dodd v. Bannister, supra, where the court reviewed a dismissal of a disciplinary complaint by the Bar based on the complainant's petition alleging the Bar had violated the court's rules. There was no express provision granting the Court the authority to review a dismissed complaint in that case either, yet the Court held

> If the power is inherent, as we hold it is, there is no necessity for the rules of the court to expressly affirm the existence of such power.

Dodd v. Bannister, supra at 188.

Stroh had no right to depend on the Board's order of dismissal since the court has reiterated that:

> We always give serious consideration to recommendations of the Board in disciplinary proceedings. Nevertheless, they are only advisory. The ultimate responsibility for determining the nature of discipline rests solely within this court.

In re Espodal, 82 Wash. 2d 834, 838, 514 P.2d 518 (1973).

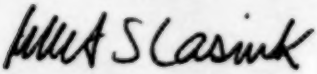
As a matter of fact, Stroh has been treated in a manner completely consistent with the class of attorneys convicted of felonies in Washington State. Every one before and after Stroh has been disbarred by the court regardless of a lesser recommendation by the Bar or the Board. See. e.g., In re Krogh, 85 Wash. 2d 462, 536 P.2d 518 (1975); In re Stroh, 97 Wash. 2d at 298; In re McGrath, 98 Wash. 2d 337, ___ P.2d ___ (1982). There has been no equal protection violation.

CONCLUSION

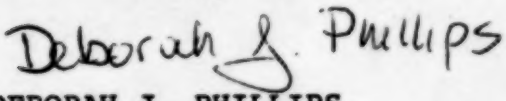
The King County Prosecutor respectfully requests that Stroh's Petition For A Writ of Certiorari be denied.

Respectfully submitted

NORM MALENG
King County
Prosecuting Attorney



ROBERT S. LASNIK
Senior Deputy
Prosecuting Attorney



DEBORAH J. PHILLIPS
Deputy Prosecuting
Attorney
Counsel of Record

Attorneys for Respondent

January 1983

APPENDIX A

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re:	)	
	)	
HUGH W. STROH,	)	FORMAL
	)	COMPLAINT
An Attorney	)	
at Law	)	
	)	

Pursuant to Rule 1.1(a) of the Discipline Rules for Attorneys of the Washington State Bar Association, a Formal Complaint is hereby filed against attorney Hugh W. Stroh, so that a hearing may be held before the hearing panel as provided in the Discipline Rules for Attorneys to determine: (1) Whether moral turpitude was in fact an element of the crime committed by Hugh W. Stroh, and (2) the disciplinary action recommended to result therefrom.

I. ADMISSION TO PRACTICE

1.1 Hugh W. Stroh, hereinafter respondent, was admitted to the practice of law by the Supreme Court of the State of Washington on September 28, 1970. At all times material hereto he has maintained his professional office in King County, Washington.

II. FORMAL COMPLAINT

2.1 On April 30, 1979, respondent was found guilty of the crime of tampering with a witness, a class "C" felony,

in violation of RCW 9A.72.120(1)(a).

2.2 RCW 9A.72.120 provides as follows:

> (1) A person is guilty of tampering with a witness if he attempts to induce a witness or person he has reason to believe is about to be called as a witness in any official proceeding to:
>
> > (a) Testify falsely or, without right or privilege to do so, to withhold any testimony.

2.3 On August 22, 1979, respondent was given a deferred sentence. A true copy of the deferred sentence order is attached to this complaint as Exhibit A.

2.4 The acts and omissions of respondent, above described, constitute a violation of the following provisions of the Discipline Rules for Attorneys; copies of which are attached and incorporated by references as fully set out: DRA 1.1(a) [prohibiting an act involving moral turpitude, dishonesty or corruption]; (i) [prohibiting a violation of the Code of Professional Responsibility]; (k) [prohibiting conduct demonstrating an unfitness to practice law].

A violation of DRA 1.1(i) is more specifically demonstrated by respondent's transgression of the following provisions of the Code of Professional Responsibility, copies of which are attached and incorporated by reference as if fully set out: DR 1-102(A) (3) [prohibiting illegal conduct involving

moral turpitude]; (5) [prohibiting conduct prejudicial to the administration of justice]; (6) [prohibiting conduct demonstrating an unfitness to practice law].

III. ISSUES FOR HEARING

Pursuant to DRA 1.1(a), the Washington State Bar Association requests a hearing be held to determine the following:

(1) Whether moral turpitude was in fact an element of the crime committed by respondent.

(2) The disciplinary action recommended.

DATED this 4th day of September, 1979.

WASHINGTON STATE BAR ASSOCIATION

By: /s/
LELAND G. RIPLEY
State Bar Counsel

RULE 1.1

Grounds

An attorney at law may be subjected to the disciplinary sanctions or actions set forth in Rule 1.2 for any of the following causes, hereinafter sometimes referred to as violations of the rules of professional conduct:

(a) The commission of any act involving moral turpitude, dishonesty, or corruption, whether the same be committed in the course of his or her conduct as an attorney, or otherwise, and whether the same constitutes a felony or misdemeanor or not; and if the act constitutes a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon such conviction, however, the judgment and sentence shall be conclusive evidence at the ensuing disciplinary hearing of the guilt of the respondent attorney of the crime described in the indictment or information, and of his or her violation of the statute upon which it is based. A disciplinary hearing as provided in Rule 3.2 of these rules shall be had to determine, (1) whether moral turpitude was in fact an element of the crime committed by the respondent attorney and, (2) the disciplinary action recommended to result therefrom.

. . . .

(i) Violation of the Code of Professional Responsibility of the profession adopted by the Supreme Court of the State of Washington.

. . . .

(k) Conduct demonstrating unfitness to practice law.

DR 1-1-2 Misconduct

(A) A lawyer shall not:

. . . .

(3) Engage in illegal conduct involving moral turpitude.

. . . .

(5) Engage in conduct that is prejudicial to the administration of justice.

(6) Engage in any other conduct that adversely reflects on his fitness to practice law.

APPENDIX B

BEFORE THE DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re	)	
	)	
HUGH W. STROH	)	FINDINGS,
	)	CONCLUSIONS
An Attorney	)	AND
Law	)	RECOMMENDATIONS
	)	

THIS MATTER having come before the undersigned Hearing Panel Officer, for hearing on october 30, 1979, and the Bar Association appearing through Leland G. Ripley, and Hugh W. Stroh appearing pro se and the undersigned having heard the evidence, testimony, and argument of counsel, and being fully advised makes the following:

FINDINGS OF FACT

I.

Hugh W. Stroh, hereinafter respondent, was admitted to the practice of law by the Supreme Court of the State of Washington on September 28, 1970. At all times material hereto he has maintained his professional office in King County Washington.

II.

On April 30, 1979, respondent was found guilty of the crime of tampering with a witness, a Class C felony, in violation of RCW 9A.72.120(1)(a) in that he attempted to induce a person he had reason to believe would be called as a witness to testify falsely.

III.

On August 22, 1979, respondent was given a deferred sentence.

IV.

The Affidavit of Prior Disciplinary Record is hereby incorporated by this reference herein as if fully set out and made a findings of this examiner.

V.

Respondent Attorney, Hugh W. Stroh, has continuously practiced law since the date of incident of March 3, 1977, to present without incident and it has been stipulated that Respondent Attorney's character and ability as a professional since the date of incident is good.

FROM THE FOREGOING FINDINGS OF FACT, the Hearing Panel Officer makes the following:

CONCLUSIONS

I.

Respondent's conduct in attempting to get a witness to testify falsely violated the commonly accepted standard of good morals, honesty and justice, and involved moral turpitude.

II.

Respondent's conduct violates Rule 1.1(a) and (i) of the Discipline Rules for Attorneys which provide:

> An attorney at law may be subjected to the disciplinary sanctions or actions set forth in Rule 1.2 for any of the following causes, hereinafter sometimes referred to as

violations of the rules of professional conduct:

(a) The commission of any act involving moral turpitude, dishonesty, or corruption, whether the same be committed in the course of his or her conduct as an attorney or otherwise, and whether the same constitutes a felony or misdemeanor or not; . . .

(i) Violation of the Code of Professional Responsibility of the profession adopted by the Supreme Court of the State of Washington.

Respondent's violation of Rule 1.1(i) is based upon his transgression of the following provisions of the Code of Professional Responsibility:

DR 1-102 Misconduct

(A) A lawyer shall not:
. . .

(3) Engage in illegal conduct involving moral turpitude.

(5) Engage in conduct that is prejudicial to the administration of justice.

III.

This is a case of first impression involving an attorney convicted under RCW 9A which mandates a segregation of felonies into various degrees; that is, Class A; Class B; Class C. Because of the respondent's conviction of a Class C

felony combined with legal precedent addressing disposition of the same, as promulgated by the Supreme Court of the State of Washington, the following recommendation is necessary and becomes a recommendation of this Hearing Panel Officer; that is:

RECOMMENDATION

Respondent has been convicted of a felony involving moral turpitude. It is the Hearing Panel Officer's opinion that the possibility of recidivism of this occurrance involving the respondent attorney is remote; however, and because respondent has been convicted of a felony involving moral turpitude, it is the Hearing Panel Officer's recommendation that, subject to Rule 8.1(a) of the Discipline Rules for Attorneys, respondent be disbarred.

DATED this 13th of December, 1979.

WASHINGTON STATE BAR ASSOCIATION

By /s/
Richard J. Waters
Hearing Panel Officer

APPENDIX C

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

In The Matter Of	)	
	)	C.D 6869
HUGH W. STROH,	)	
	)	ORDER TO
Attorney at	)	SHOW CAUSE
Law	)	
	)	

The above entitled matter came on for hearing before the Chief Justice of the Supreme Court, upon the Petition of the King County Prosecuting Attorney. Hugh W. Stroh was present, acting pro se. Petitioner was represented by King County Prosecutor Norm Maleng and Deputy Robert Lasnik; the Washington State Bar Association and its Disciplinary Board were represented by Kurt Bulmer, General Counsel.

After consideration of said Petition, the memorandum in support thereof, the response of the Bar Association and oral argument

IT IS HEREBY ORDERED:

1(a). That Hugh W. Stroh, the Washington State Bar Association and the Disciplinary Board thereof shall show cause on the 9th day of September, 1981, at the hour of 1:30 p.m. why on the facts shown in said Petition, the Supreme Court should not order the transmittal of all the files and records

of the Disciplinary Board in the above entitled matter to the Supreme Court for review pursuant to the Discipline Rules for Attorneys and the inherent authority of the Supreme Court over professional conduct by a member of the Bar and

(b) Why the Supreme Court should not review the proceedings before the Disciplinary Board in this matter and the Order of said Board of February 22, 1980, to determine procedural and substantive compliance with the Discipline Rules for Attorneys.

2. That the parties shall file briefs and present oral argument according to a schedule set by the Clerk of the Supreme Court concerning the following issues, and other issues deemed relevant by the parties:

(a) Should the Court take cognizance of this matter either upon the Petition of the Prosecuting Attorney of King County or upon its own motion?

(b) Did the proceedings before the Disciplinary Board and its Order of February 22, 1980, comply with the Discipline Rules for Attorneys (1) as a matter of law and/or (2) as a matter of fact?

3. That a copy of said Petition and of this Order to Show Cause be served on Hugh W. Stroh, the Washington State Bar Association and the Disciplinary Board thereof, by serving Hugh W. Stroh personally and the Washington State Bar Association and its Disciplinary Board by leaving two copies of the Petition

and this Order at the office of the Washington State Bar Association, 505 Madison Street, Seattle, Washington.

DATED this 10th day of July, 1981.

/s/ Robert F. Brachtenbach
Chief Justice